

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: OFFICE OF CONSUMER ADVOCATE, Complainant, vs. LOTEL, INC., d/b/a COORDINATED BILLING SERVICES, Respondent.	DOCKET NO. FCU-04-36
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**ORDER DOCKETING FOR FORMAL PROCEEDING AND
SETTING DEADLINE FOR RESPONSE**

(Issued September 10, 2004)

On August 5, 2004, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed with the Utilities Board (Board) a petition for a proceeding to consider a civil penalty pursuant to Iowa Code § 476.103 (2003), asking that the Board review the proposed resolution in C-04-130, involving LoTel, Inc., d/b/a Coordinated Billing Services (Coordinated Billing), and consider the possibility of assessing a civil penalty pursuant to Iowa Code § 476.103(4)"a." Based upon the record assembled in the informal complaint proceedings, it appears the events to date can be summarized as follows:

On May 13, 2004, Ann Cooper of Schroder Engineering, P.C. (Schroder), Sioux City, Iowa, submitted a complaint to the Board alleging that the long distance

carrier for Schroder was changed without authorization. In the complaint, Ms. Cooper states that a person called Schroder's office, "identified themselves as Qwest," and explained that the purpose of the call was to update billing information. The complaint states that the sales agent never mentioned there would be a new long distance carrier. Board staff identified the matter as C-04-130 and, pursuant to Board rules, on May 14, 2004, forwarded the complaint to Coordinated Billing for response within ten days.

Coordinated Billing responded to the complaint with a letter dated May 24, 2004. Coordinated Billing indicates that it offers customers flat-rate long distance service with single-bill billing and sells its services using independent telemarketers. Coordinated Billing states that it is no longer accepting sales from the marketing agency responsible for the sale to Schroder.

Coordinated Billing states that its records indicate that on April 5, 2004, its sales agent contacted Schroder and spoke with a Ms. Angie Nelson about changing telephone service to Coordinated Billing Services and that Ms. Nelson indicated that she wanted to switch Schroder's long distance service. Coordinated Billing states that the verification agent confirmed that Ms. Nelson understood that the call she had received was from a representative of Coordinated Billing and that the verification agent informed Ms. Nelson of all rates and charges and explained that new long distance service provided by Coordinated Billing would start in five to ten days. Coordinated Billing indicates that Ms. Nelson identified herself in the verification

process as the controller and provided her date of birth. Coordinated Billing states that its practice is to send the customer a welcome package including a notice of all terms and conditions on the first business day following verification. Coordinated Billing provided a copy of the verification recording and states that it issued Schroder a full credit of \$113.45, plus tax, on May 24, 2004.

On July 22, 2004, Board staff issued a proposed resolution describing these events. Board staff noted that Ms. Nelson's voice is barely audible on the recording when answering the questions asked by the verifier, but that she does provide her date of birth. Staff noted that Coordinated Billing is no longer using the services of the marketing agency that made this sale because of issues as to whether the agency was following Coordinated Billing's standards intended to prevent misrepresentation. While a misrepresentation may have been made prior to the sale, staff concluded that because sufficient information was provided in the verification process, slamming did not occur in this case.

In its August 5, 2004, petition, Consumer Advocate asserts that Board staff's proposed resolution is incorrect because neither the recording of the verification portion of the telemarketing call nor anything else in the record discredits the complaining customer's allegation of misrepresentation by the telemarketer during the unrecorded portion of the call. Consumer Advocate states that a civil penalty should be imposed against Coordinated Billing to deter future slamming violations. Consumer Advocate asserts that Coordinated Billing has a history of prior violation.

Consumer Advocate requests that the Board docket this complaint for formal proceeding. Coordinated Billing has not responded to Consumer Advocate's petition.

The Board has reviewed the record to date and finds there is sufficient information to warrant further investigation into this matter. The Board will delay establishing a procedural schedule and allow Coordinated Billing an opportunity to respond to the allegations raised in Consumer Advocate's petition.

IT IS THEREFORE ORDERED:

1. The "Petition for Proceeding to Consider Civil Penalty" filed by the Consumer Advocate Division of the Department of Justice on August 5, 2004, is granted. File C-04-130 is docketed for formal proceeding, identified as Docket No. FCU-04-36.

2. LoTel, Inc., d/b/a Coordinated Billing Services, is directed to file a response to Consumer Advocate's petition on or before October 8, 2004.

UTILITIES BOARD

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 10th day of September, 2004.